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17 (additional counsel on following pages)

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TONYA OWENS, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 2:23-cv-01480-JAD-VCF
(filed September 21, 2023, D. Nev.)

**PLAINTIFFS' MOTION
TO CONSOLIDATE FOR PRETRIAL
PROCEEDINGS AND INTEGRATED
MEMORANDUM OF LAW IN SUPPORT**

EMILY KIRWAN, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 2:23-cv-01481-RFB-DJA
(filed September 21, 2023, D. Nev.)

DAVID ZUSSMAN, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

**VICI PROPERTIES L.P.; MGM RESORTS
INTERNATIONAL; and MGM GROWTH
PROPERTIES OPERATING
PARTNERSHIP L.P.**

Defendants

Case No. 2:23-cv-01537-CDS-BNW
(filed September 27, 2023, D. Nev.)

DAVID LACKEY, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 2:23-cv-01549-RFB-NJK
(filed September 28, 2023, D. Nev.)

MICHAEL PIRCIO, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 2:23-cv-01550-CDS-NJK
(filed September 28, 2023, D. Nev.)

LAURA WILLIS ALBRIGO and **ANITA
JOHNSON**, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 3:23-cv-01797-JLS-BLM
(filed September 28, 2023, S.D. Cal.,
transf. November 17, 2023, D. Nev.)

DAVID TEREZO, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 2:23-cv-01577-JAD-VCF
(filed October 3, 2023, D. Nev.)

RONALD G. RUNDELL, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 2:23-cv-01698-CDS-DJA
(filed October 18, 2023, D. Nev.)

CHARLES BEZAK, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 2:23-cv-01719-RFB-BNW
(filed October 20, 2023, D. Nev.)

PAUL ZARI, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 2:23-cv-01777-CDS-BNW
(filed November 1, 2023, D. Nev.)

MICHAEL MANSON, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL,

Defendant.

Case No. 2:23-cv-01826-CDS-EJY
(filed November 7, 2023, D. Nev.)

**PLAINTIFFS' MOTION TO CONSOLIDATE FOR PRETRIAL PROCEEDINGS AND
INTEGRATED MEMORANDUM OF LAW IN SUPPORT**

Under Rule 42(a) of the Federal Rules of Civil Procedure, Plaintiffs, TONYA OWENS,
EMILY KIRWAN, DAVID ZUSSMAN, DAVID LACKEY, MICHAEL PIRCIO, LAURA
WILLIS ALBRIGO and ANITA JOHNSON, DAVID TEREZO, RONALD G. RUNDELL,
CHARLES BEZAK, PAUL ZARI, and MICHAEL MANSON, each individually, and on behalf
of all others similarly situated (hereinafter, "Plaintiffs"), move the Court to consolidate the above
styled actions against Defendants, MGM RESORTS INTERNATIONAL ("MGM") and VICI
PROPERTIES L.P. and MGM GROWTH PROPERTIES OPERATING PARTNERSHIP L.P., for

pretrial proceedings, respectfully stating as follows:

WHEREAS, Plaintiffs seek to consolidate the following putative class actions (the “Related Actions”) filed between September 21, 2023 and November 7, 2023, and any subsequently filed actions, under Fed. R. Civ. P. 42(a):

Abbreviated Case Name	Case No.	Date Filed
<i>Owens v. MGM Resorts International</i>	2:23-cv-01480	9/21/2023
<i>Kirwan v. MGM Resorts International</i>	2:23-cv-01481	9/21/2023
<i>Zussman v. VICI Properties I LLC, et al.</i>	2:23-cv-01537	9/27/2023
<i>Lackey v. MGM Resorts International</i>	2:23-cv-01549	9/28/2023
<i>Pircio v. MGM Resorts International</i>	2:23-cv-01550	9/28/2023
<i>Albrigo v. MGM Resorts International</i>	3:23-cv-01797	9/28/2023
<i>Terezo v. MGM Resorts International</i>	2:23-cv-01577	10/3/2023
<i>Rundell v. MGM Resorts International</i>	2:23-cv-01698	10/18/2023
<i>Bezak v. MGM Resorts International</i>	2:23-cv-01719	10/20/2023
<i>Zari v. MGM Resorts International</i>	2:23-cv-01777	11/1/2023
<i>Manson v. MGM Resorts International</i>	2:23-cv-01826	11/7/2023

WHEREAS, under Fed. R. Civ. P. 42(a), the Court may consolidate actions before it if involving common questions of law and fact. Such consolidation “permits district courts ‘to expedite the trial and eliminate unnecessary repetition and confusion.’” *Houghton v. Rancho Mesquite Casino, Inc.*, No. 223CV00276CDS DJA, 2023 WL 2633742, at *1 (D. Nev. Mar. 24, 2023) quoting *DuPont v. S. Pac. Co.*, 366 F.2d 193, 195 (5th Cir. 1966). In deciding whether to consolidate cases, the Court “weigh[s] the interest of judicial convenience against the potential for delay, confusion[,] and prejudice.” *Id.* (quoting *Zhu v. UCBH Holdings, Inc.*, 682 F. Supp. 2d 1049, 1052 (N.D. Cal. 2010)); see also *Huene v. United States*, 743 F.2d 703, 704 (9th Cir. 1984).

WHEREAS, these Related Actions allege nearly identical claims against Defendants, arising from MGM’s failures to adequately safeguard the personally identifiable information (“PII”) entrusted to it by its customers, resulting in a cyberattack and data breach to MGM systems in September 2023 in which the PII of Plaintiffs and the proposed Class Members, members of MGM’s loyalty program, was unauthorizedly disclosed and compromised (the “Data Breach”).

1 See, e.g., *Owens* Action Complaint ¶¶ 1-3; *Zari* Action Complaint ¶¶ 2-3, 5; MGM Notice of Data
2 Breach.¹ This includes their full names, dates of birth, addresses, email addresses, phone numbers,
3 Social Security numbers and/or driver's license numbers. *Owens* Action Compl. ¶ 1. Only (1) one
4 of these eleven (11) Related Actions involves other Defendants, *Zussman v. VICI Properties I*
5 *LLC, et al.*, Case No. 2:23-cv-01537, which names VICI Properties, L.P. and MGM Growth
6 Properties Operating Partnership, L.P., as defendants in addition to MGM. The Related Actions
7 have proposed class definitions that will encompass the same persons, e.g., all individuals residing
8 in the United States whose personal identifiable information was disclosed in the Data Breach
9 (*Owens* Compl. ¶ 126), and arise from the same general set of factual allegations relating to the
10 same Data Breach. Accordingly, the Related Actions involve common questions of law and fact,
11 and should be consolidated under Fed. R. Civ. P. 42(a);
12

13
14 WHEREAS Plaintiffs agree the Related Actions should be consolidated for pretrial
15 proceedings into the *Owens* Action (Case No. 2:23-cv-01480) for purposes of judicial economy;

16 WHEREAS, Plaintiffs from the Related Cases have coordinated and agree that it would be
17 duplicative and wasteful of the Court's and the parties' resources to litigate the cases separately.
18 See *Houghton v. Rancho Mesquite Casino, Inc.*, No. 2:23-cv-00276-CDS-DJA, 2023 WL
19 2633742, at *1 (D. Nev. Mar. 24, 2023) (for the purposes of expediting trial and eliminating
20 unnecessary repetition, district courts have broad discretion under this rule to consolidate cases
21 pending in the same district);
22

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27 ¹ See Notice of Data Breach, MGM (Oct. 5, 2023), [https://www.mgmresorts.com/en/notice-of-](https://www.mgmresorts.com/en/notice-of-data-breach.html)
28 [data-breach.html](https://www.mgmresorts.com/en/notice-of-data-breach.html) (last visited Oct. 17, 2023).

WHEREAS, in an effort to assure consistent rulings and decisions and to avoid unnecessary duplication of effort, all counsel for Plaintiffs in the Related Actions, jointly move this Court for entry of an order consolidating the Related Actions for pre-trial proceedings; Defendant has been consulted and has responded they wish to retain the right to oppose; and

NOW, THEREFORE, Plaintiffs submit the following to the Court for approval:

1. The following Related Actions are hereby consolidated for all pretrial proceedings (“Consolidated Action”):

Abbreviated Case Name	Case No.	Date Filed
<i>Owens v. MGM Resorts International</i>	2:23-cv-01480	9/21/2023
<i>Kirwan v. MGM Resorts International</i>	2:23-cv-01481	9/21/2023
<i>Zussman v. VICI Properties I LLC, et al.</i>	2:23-cv-01537	9/27/2023
<i>Lackey v. MGM Resorts International</i>	2:23-cv-01549	9/28/2023
<i>Pircio v. MGM Resorts International</i>	2:23-cv-01550	9/28/2023
<i>Albrigo v. MGM Resorts International</i>	3:23-cv-01797	9/28/2023
<i>Terezo v. MGM Resorts International</i>	2:23-cv-01577	10/3/2023
<i>Rundell v. MGM Resorts International</i>	2:23-cv-01698	10/18/2023
<i>Bezak v. MGM Resorts International</i>	2:23-cv-01719	10/20/2023
<i>Zari v. MGM Resorts International</i>	2:23-cv-01777	11/1/2023
<i>Manson v. MGM Resorts International</i>	2:23-cv-01826	11/7/2023

2. Every pleading filed in the Consolidated Action shall bear the following caption:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

**In Re MGM RESORTS INTERNATIONAL
DATA BREACH LITIGATION**

Master File No. 2:23-cv-01480

(Consolidated for pretrial proceedings with Case Nos. 2:23-cv-01481, 2:23-cv-01537, 2:23-cv-01549, 2:23-cv-01550, 3:23-cv-01797, 2:23-cv-01577, 2:23-cv-01698, 2:23-cv-01719, 2:23-cv-01777, 2:23-cv-01826)

CONSOLIDATED CLASS ACTION

3. The files of the Consolidated Action shall be maintained in one file under Master

1 File No. 2:23-cv-01480;

2 4. Should a case that arises out of the same subject matter of the Consolidated Action
3 subsequently be filed in this Court or transferred from another Court, a motion may be made to
4 consolidate it with these Related Cases. Nothing in the foregoing shall be construed as a waiver of
5 Defendants' rights to object to consolidation of any subsequently filed or transferred related
6 actions;
7

8 5. Defendants do not waive their rights to move to dismiss the Consolidated Action
9 or any individual action, to oppose class certification under Fed. R. Civ. P. 23 or the appointment
10 of class counsel on any grounds, or to oppose joinder of plaintiffs to one another including for
11 purposes of trial;
12

13 6. Under Fed. R. Civ. P. 5(b)(2)(E), service by e-mail transmission shall be permitted
14 in addition to service via ECF notification;

15 7. Upon granting of this Motion, all deadlines in all of the Related Actions are stayed;

16 8. Leadership applications, pursuant to Fed. R. Civ. P. 23(g)(3), shall be filed within
17 20 days of the date of an Order granting this Motion;

18 9. Plaintiffs shall file a superseding consolidated amended complaint no later than
19 45 days following the appointment of interim class counsel;
20

21 10. Defendants shall have 45 days from the filing of the superseding consolidated
22 amended complaint to file a motion to dismiss or otherwise respond to that complaint; Plaintiffs
23 shall have 45 days thereafter to file their opposition; and Defendants shall have 30 days thereafter
24 to file a reply in support.

25 A proposed order granting the Motion is attached hereto.
26
27
28

Dated: March 19, 2024.

Respectfully submitted,

/s/ Nathan R. Ring

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***Counsel for Plaintiff Michael Manson
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CERTIFICATE OF SERVICE

It is hereby certified that a true and accurate copy of the foregoing was this 19th day of March, 2024 filed via the CM/ECF system and served by electronic mail upon all counsel of record.

/s/ Nathan R. Ring
Nathan R. Ring